

Effective 5/1/2024

76-2-305 Mental condition -- Use as a defense -- Influence of alcohol or other substance voluntarily consumed.

(1) As used in this section:

(a)

- (i) "Mental condition" means a mental illness or a mental disability that substantially impairs an individual's mental, emotional, or behavioral functioning.
- (ii) "Mental condition" does not include a mental abnormality that is manifested solely by repeated criminal conduct, anti-social behavior, or a substance use disorder.
- (b) "Mental disability" means an intellectual disability or a neurodevelopmental disorder as those terms are defined in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.
- (c) "Mental illness" means the following mental disorders as described in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association:
 - (i) schizophrenia spectrum and other psychotic disorders;
 - (ii) bipolar I disorder;
 - (iii) post-traumatic stress disorder; or
 - (iv) other serious mental health conditions with psychotic features.

(2)

- (a) It is a defense to a prosecution under any statute or ordinance that the defendant, as a result of a mental condition, lacked the mental state required as an element of the offense charged.
 - (b) A mental condition is not otherwise a defense, but may be evidence in mitigation of the penalty in a capital felony under Section 76-3-207 and may be evidence of special mitigation reducing the level of a criminal homicide or attempted criminal homicide offense under Section 76-5-205.5.
- (3) The defense defined in this section includes the defenses known as "insanity" and "diminished mental capacity."
- (4) A person who asserts a defense of insanity or diminished mental capacity, and who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense is not excused from criminal responsibility on the basis of a mental condition if the alcohol or substance caused, triggered, or substantially contributed to the mental condition.

Amended by Chapter 177, 2024 General Session